

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Located in Glendale, Colorado

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Denver, Colorado 80230-6928  
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Colorado Department  
of Public Health  
and Environment

January 16, 2009

Corporation Service Company, Registered Agent  
Lowe's HIW, Inc.  
1560 Broadway Suite 2090  
Denver, CO 80202

**Certified Mail Number: 7007 0220 0001 0160 0073**

**RE: Expedited Settlement Agreement, Number: ES-090116-2  
CDPS Permit No: COR-03B480**

Dear Sir or Madam:

Enclosed for your records you will find Lowe's HIW, Inc.'s copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, Lowe's HIW, Inc. must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact Danelle Morgan at (303) 692-3176 or by electronic mail at [danelle.morgan@state.co.us](mailto:danelle.morgan@state.co.us).

Sincerely,

Kristi-Raye Beaudin, Legal Assistant  
Water Quality Protection Section  
WATER QUALITY CONTROL DIVISION

cc: Pueblo City-County Health Department

ec: Aaron Urdiales, EPA Region VIII  
Gary Beers, Permits Unit, CDPHE

*Enclosure(s)*



Colorado Department of Public Health & Environment  
Water Quality Control Division

## EXPEDITED SETTLEMENT AGREEMENT

Number: ES-090116-2

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§25-8-602, 25-8-605 and 25-8-608, C.R.S. of the Colorado Water Quality Control Act (the "Act") §§25-8-101 to 703, C.R.S., and its implementing regulations, with the express consent of Lowe's HIW, Inc. ("Lowe's"). The Division and Lowe's may be referred to collectively as "the Parties."

1. Lowe's is a "person" as defined under the Water Quality Control Act, §25-8-103(13), C.R.S. and its implementing permit regulation, 5 CCR 1002-61, §61.2(73).
2. Lowe's is conducting construction activities to build a commercial development, located in or near the Town of Pueblo, Pueblo County, Colorado (the "Project").
3. Lowe's failed to comply with the provisions of its Colorado Discharge Permit System General Permit for Stormwater Discharges Associated with Construction Activity (the "Permit"), Certification Number COR-03B480, as described in the attached inspection report.
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein and in the attached inspection report for a penalty of \$15,750.00
5. By accepting this ESA, Lowe's neither admits nor denies the violations or deficiencies specified herein and in the attached inspection report.
6. Lowe's certifies that all deficiencies identified in the attached inspection report have been corrected and that the Project is currently in full compliance with the terms and provisions of the Permit. Additionally, Lowe's has attached to this ESA: (1) a written description detailing how the deficiencies were corrected; and (2) representative photographs documenting the current conditions and the associated BMPs implemented at the Project.
7. Lowe's agrees to the terms and conditions of this ESA. Lowe's agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Lowe's waives: (1) the right to contest the finding(s) specified herein and in the attached inspection report; and (2) the opportunity for a public hearing pursuant to §25-8-603, C.R.S.
8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Lowe's each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.

9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
10. Lowe's agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Lowe's shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:

Danella Morgan  
Colorado Department of Public Health and Environment  
Water Quality Control Division  
Mail Code: WQCD-CADM-B2  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

11. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Lowe's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Lowe's. Lowe's agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon Lowe's and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this ESA.

ACCEPTED BY LOWE'S HIW, INC.:

Signature

Date

Name (printed)

Title

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:

Lori M. Gerzina  
Lori M. Gerzina, Section Manager  
Compliance Assurance and Data Management Section  
WATER QUALITY CONTROL DIVISION

Date: